

§21.21

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but shall notify all directors who are not suspects.

(i) *Compliance.* Failure to file a SAR in accordance with this section and the instructions may subject the national bank, its directors, officers, employees, agents, or other institution-affiliated parties to supervisory action.

(j) *Obtaining SARs.* A national bank may obtain SARs and the Instructions from the appropriate OCC District Office listed in 12 CFR part 4.

(k) *Confidentiality of SARs.* SARs are confidential. Any national bank or person subpoenaed or otherwise requested to disclose a SAR or the information contained in a SAR shall decline to produce the SAR or to provide any information that would disclose that a SAR has been prepared or filed, citing this section, applicable law (*e.g.*, 31 U.S.C. 5318(g)), or both, and shall notify the OCC.

(l) *Safe harbor.* The safe harbor provision of 31 U.S.C. 5318(g), which exempts any financial institution that makes a disclosure of any possible violation of law or regulation from liability under any law or regulation of the United States, or any constitution, law, or regulation of any state or political subdivision, covers all reports of suspected or known criminal violations and suspicious activities to law enforcement and financial institution supervisory authorities, including supporting documentation, regardless of whether such reports are required to be filed pursuant to this section or are filed on a voluntary basis.

[61 FR 4337, Feb. 5, 1996]

Subpart C—Procedures for Monitoring Bank Secrecy Act Compliance

§21.21 Procedures for monitoring Bank Secrecy Act (BSA) compliance.

(a) *Purpose.* This subpart is issued to assure that all national banks establish and maintain procedures reasonably designed to assure and monitor their compliance with the requirements of subchapter II of chapter 53 of title 31, United States Code, and the implementing regulations promulgated

thereunder by the Department of Treasury at 31 CFR part 103.

(b) *Establishment of a BSA compliance program—(1) Program requirement.* Each bank shall develop and provide for the continued administration of a program reasonably designed to assure and monitor compliance with the recordkeeping and reporting requirements set forth in subchapter II of chapter 53 of title 31, United States Code and the implementing regulations issued by the Department of the Treasury at 31 CFR part 103. The compliance program must be written, approved by the bank's board of directors, and reflected in the minutes of the bank.

(2) *Customer identification program.* Each bank is subject to the requirements of 31 U.S.C. 5318(l) and the implementing regulation jointly promulgated by the OCC and the Department of the Treasury at 31 CFR 103.121, which require a customer identification program to be implemented as part of the BSA compliance program required under this section.

(c) *Contents of compliance program.* The compliance program shall, at a minimum:

(1) Provide for a system of internal controls to assure ongoing compliance;

(2) Provide for independent testing for compliance to be conducted by bank personnel or by an outside party;

(3) Designate an individual or individuals responsible for coordinating and monitoring day-to-day compliance; and

(4) Provide training for appropriate personnel.

(Approved by the Office of Management and Budget under control number 1557–0180)

[52 FR 2859, Jan. 27, 1987, as amended at 68 FR 25111, May 9, 2003]

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